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9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2020-067286

14 **Prakash Krishin Bhatia, M.D.**
15 **610 EUCLID AVE STE 200**
NATIONAL CITY CA 91950-2951

A C C U S A T I O N

16 **Physician's and Surgeon's**
17 **Certificate No. A 74848,**

Respondent.

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19
20 **PARTIES**

21 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
22 the Interim Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about June 7, 2001, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 74848 to Prakash Krishin Bhatia, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on May 31, 2025, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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1 (1) An initial negligent diagnosis followed by an act or omission medically
2 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

3 (2) When the standard of care requires a change in the diagnosis, act, or
4 omission that constitutes the negligent act described in paragraph (1), including, but
5 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
licensee's conduct departs from the applicable standard of care, each departure
constitutes a separate and distinct breach of the standard of care.

6 (d) Incompetence.

7 (e) The commission of any act involving dishonesty or corruption that is
8 substantially related to the qualifications, functions, or duties of a physician and
surgeon.

9 (f) Any action or conduct that would have warranted the denial of a certificate.

10 (g) The failure by a certificate holder, in the absence of good cause, to attend
11 and participate in an interview by the board. This subdivision shall only apply to a
certificate holder who is the subject of an investigation by the board.

12 6. Section 2266 of the Code states:

13 The failure of a physician and surgeon to maintain adequate and accurate
14 records relating to the provision of services to their patients constitutes unprofessional
conduct.

15 7. Unprofessional conduct under Business and Professions Code section 2234 is conduct
16 which breaches the rules or ethical code of the medical profession, or conduct which is
17 unbecoming a member in good standing of the medical profession, and which demonstrates an
18 unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
19 575.)

20 COST RECOVERY

21 8. Section 125.3 of the Code states:

22 (a) Except as otherwise provided by law, in any order issued in resolution of a
23 disciplinary proceeding before any board within the department or before the
Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
24 administrative law judge may direct a licensee found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the
25 investigation and enforcement of the case.

26 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
order may be made against the licensed corporate entity or licensed partnership.

27 (c) A certified copy of the actual costs, or a good faith estimate of costs where
28 actual costs are not available, signed by the entity bringing the proceeding or its
designated representative shall be prima facie evidence of reasonable costs of

investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 9. Respondent has subjected his Physician's and Surgeon's Certificate No. A 74848 to
4 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of
5 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A,¹
6 Patient B, and Patient C, as more particularly alleged herein:

7 **Patient A**

8 10. On or about December 28, 2015,² Patient A first presented to Respondent. At that
9 time, Patient A was a fifty-one (51) year-old male with a medication list of oxymorphone³ ER 60
10 mg three times daily, oxycodone⁴ 20 mg three times daily, carvedilol,⁵ omeprazole,⁶ and
11

12 ¹ References to "Patient A, B, and C" are used to protect patient privacy.

13 ² Conduct occurring more than seven (7) years from the filing date of this Accusation is
14 for informational purposes only and is not alleged as a basis for disciplinary action.

15 ³ Opana ER® (oxymorphone HCL), an opioid analgesic, is a Schedule II controlled
16 substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous
17 drug pursuant to Business and Professions Code section 4022. When properly prescribed and
18 indicated, it is used for the management of pain that is severe enough to require daily, around-the-
19 clock, long-term opioid treatment and for which alternative treatment options are not available.
20 The Drug Enforcement Administration has identified oxycodone, as a drug of abuse. (Drugs of
Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The Food & Drug Administration has
issued a black box warning for Opana ER® which warns about, among other things, addiction,
abuse and misuse, and the possibility of life-threatening respiratory distress. The warning also
cautions about the risks associated with concomitant use of Opana ER® with benzodiazepines or
other central nervous system (CNS) depressants.

21 ⁴ Oxycodone HCL (OxyContin®) is a Schedule II controlled substance pursuant to Health
22 and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and
23 Professions Code section 4022. When properly prescribed and indicated, Oxycodone HCL is
24 used for the management of pain severe enough to require daily, around-the-clock, long term
25 opioid treatment for which alternative treatment options are inadequate. The Drug Enforcement
Administration (DEA) has identified oxycodone as a drug of abuse. (Drugs of Abuse, A DEA
Resource Guide (2011 Edition), at p. 41.) The risk of respiratory depression and overdose is
increased with the concomitant use of benzodiazepines or when prescribed to patients with pre-
existing respiratory depression.

26 ⁵ Carvedilol is a medication [beta blocker] which can be used to treat high blood pressure
and heart failure.

27 ⁶ Omeprazole is a medication [proton-pump inhibitor] which can be used to treat
28 heartburn, a damaged esophagus, stomach ulcers, and gastroesophageal reflux disease (GERD).

1 atorvastatin.⁷ Patient A reported drinking alcohol “once a year” but denied smoking cigarettes.

2 11. Thereafter, from on or about December 28, 2015 through July 2017, Patient A
3 returned to Respondent approximately fourteen (14) times, on a nearly monthly basis, with ten
4 (10) of these visits seen by Respondent’s nurse practitioner.

5 12. From January 2016 through July 2017, Respondent prescribed the following
6 controlled substances to Patient A as part of a pain management treatment program: oxycodone
7 averaging 60 mg daily and oxymorphone averaging 180 mg daily, a combination with a morphine
8 equivalent dosage (MED) of 630 mg daily.

9 13. During the treatment period, from on or about December 28, 2015 through July 2017,
10 Respondent did not adequately monitor how Patient A was progressing regarding his pain
11 treatment goals. The progress notes provide scant information regarding the nature and extent of
12 Patient A’s pain, including, but not limited to, location of the pain, quality and intensity of the
13 pain, and factors that exacerbate or relieve the pain.

14 14. During the treatment period, from on or about December 28, 2015 through July 2017,
15 Respondent failed to adequately check CURES⁸ reports and/or failed to document having
16 adequately checked CURES reports.

17 15. During the treatment period, from on or about December 28, 2015 through July 2017,
18 Respondent failed to adequately utilize urine drug screen tests despite inconsistent result(s). For
19 example, Patient A’s urine sample collected on or about December 28, 2015 was positive for
20 oxymorphone, but negative for oxycodone and all other substances tested. This result was
21 inconsistent with a prescription of oxycodone (20 mg quantity 60) by Patient A’s primary care
22 physician.

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25 ⁷ Atorvastatin (common brand Lipitor) is a medication which can be used to treat high
26 cholesterol and triglyceride levels.

27 ⁸ CURES is the Controlled Substances Utilization Review and Evaluation System
28 (CURES), a database of Schedule II, III, and IV controlled substance prescriptions dispensed in
California, serving the public health, regulatory oversight agencies, and law enforcement.

1 16. During the treatment period, from on or about December 28, 2015 through July 2017,
2 Respondent failed to adequately monitor and/or failed to document having adequately monitored
3 Patient A for possible side effects from the opioid analgesics.

4 **Patient B**

5 17. On or about January 31, 2012, Patient B first presented to Respondent. At that time,
6 Patient B was a fifty-three (53) year-old female with a history of ADHD⁹ and bipolar disorder.¹⁰
7 Respondent began providing pain management treatment.

8 18. From about June 2016 through June 2017, Respondent prescribed the following
9 controlled substances to Patient B: transdermal fentanyl¹¹ 100 µg quantity 10 on average every 38
10 days, oxycodone averaging 114 mg daily (Morphine Equivalent Dose of 171 mg daily),
11 clonazepam¹² averaging 2.5 mg daily, and carisoprodol¹³ 350 mg averaging 2.9 tablets daily.

12 ⁹ Attention Deficit Hyperactivity Disorder (ADHD) is a chronic condition including
13 attention difficulty, hyperactivity, and impulsiveness.

14 ¹⁰ Bipolar disorder is a disorder associated with episodes of mood swings ranging from
depressive lows to manic highs.

15 ¹¹ Fentanyl transdermal (Duragesic®) patches are a Schedule II controlled substance
16 pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug
17 pursuant to Business and Professions Code section 4022. When properly prescribed and
18 indicated fentanyl transdermal patches are indicated for the management of pain in opioid-
19 tolerant patients, severe enough to require daily, around-the-clock, long term opioid treatment and
20 for which alternative treatment options are inadequate. The FDA has issued several black box
warnings about fentanyl transdermal patches including, but not limited to, the risks of addiction,
abuse and misuse; life threatening respiratory depression; accidental exposure; neonatal opioid
withdrawal syndrome; and the risks associated with the concomitant use with benzodiazepines or
other CNS depressants.

21 ¹² Klonopin® (clonazepam), a benzodiazepine, is a centrally acting hypnotic-sedative that
22 is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057,
23 subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.
When properly prescribed and indicated, it is used to treat seizure disorders and panic disorders.
Concomitant use of Klonopin® with opioids “may result in profound sedation, respiratory
depression, coma, and death.” The Drug Enforcement Administration (DEA) has identified
benzodiazepines, such as Klonopin®, as drugs of abuse. (Drugs of Abuse, DEA Resource Guide
24 (2011 Edition), at p. 53.)

25 ¹³ Soma® (carisoprodol) is a Schedule IV controlled substance pursuant to Health and
26 Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and
27 Professions Code section 4022. When properly prescribed and indicated, it is used for the short-
term treatment of acute and painful musculoskeletal conditions. Soma® is commonly used by
those who abuse opioids to potentiate the euphoric effect of opioids, to create a better “high.”
28 According to the DEA, Office of Diversion Control, “[c]arisoprodol abuse has escalated in the

1 19. During the treatment period, from about June 2016 through June 2017, Respondent
2 did not adequately monitor how Patient B was progressing regarding her pain treatment goals.
3 The progress notes provide scant information regarding the nature and extent of Patient B's pain,
4 including, but not limited to, location of the pain, quality and intensity of the pain, and factors that
5 exacerbate or relieve the pain.

6 20. During the treatment period, from about June 2016 through June 2017, Respondent
7 failed to adequately check CURES reports and/or failed to document having adequately checked
8 CURES reports.

9 21. During the treatment period, from about June 2016 through June 2017, Respondent
10 failed to adequately utilize urine drug screen tests despite the fact that Respondent was aware of
11 at least one prior Driving Under the Influence of a Drug [Oxycodone] incident for Patient B.

12 **Patient C**

13 22. On or about August 11, 2014, Patient C first presented to Respondent after her
14 admission to a nursing home in or around May 2014 following pneumonia and exacerbation of
15 her chronic obstructive pulmonary disease (COPD).¹⁴ Patient C had a history of COPD, diabetes
16 mellitus type 2, diabetic neuropathy,¹⁵ hypertension,¹⁶ hyperlipidemia,¹⁷ obesity, coronary artery

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20 last decade in the United States. According to Diversion Drug Trends, published by the DEA on
21 the trends in diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to
22 be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent
23 throughout the country. As of March 2011, street prices for [carisoprodol] Soma® ranged from
\$1 to \$5 per tablet. Diversion methods include doctor shopping for the purposes of obtaining
multiple prescriptions and forging prescriptions.”

24 ¹⁴ Chronic obstructive pulmonary disease (COPD) is a group of lung diseases that block
airflow and make it difficult to breathe.

25 ¹⁵ Diabetic neuropathy refers to a type of nerve damage that can occur with diabetes.

26 ¹⁶ Hypertension refers to a high blood pressure.

27 ¹⁷ Hyperlipidemia refers to a condition in which there are high levels of fat particles
28 (lipids) in the blood.

1 disease,¹⁸ diastolic heart failure,¹⁹ depression, anxiety, gastroesophageal reflux disease,²⁰ spinal
2 stenosis,²¹ chronic pain and degenerative joint disease.²² At the nursing home, Patient C was
3 managed by her primary care physician and various consultants, including a psychiatrist for her
4 mental health.

5 23. From on or about August 11, 2014 through on or about March 19, 2017, Patient C
6 presented to Respondent for a total of approximately twenty-three (23) times. Respondent
7 provided pain management treatment and/or care, including, but not limited to, prescribing
8 analgesic medications, including opioid analgesics and carisoprodol, and administering several
9 steroid injections at the knees.

10 24. From on or about May 8, 2016 through on or about May 17, 2016, Patient C was
11 hospitalized due to a drug overdose, and was brought to the emergency room by paramedics from
12 her skilled nursing facility “for altered mental status.”

13 25. On or about May 9, 2016, a psychiatric consultant found Patient C to be confused and
14 a poor historian and noted that Patient C’s urine drug screen was positive for amphetamine,
15 cannabis, opiates, and oxycodone.

16 26. On or about May 17, 2016, Patient C was discharged back to the nursing home.

17 27. Respondent’s medical records regarding Patient C’s May 2016 hospitalization
18 contain, among other things, references to diagnoses of amphetamine use and marijuana use,
19 “crystal meth[amphetamine] use,” morbid obesity, and suspected obstructive sleep apnea.²³
20 However, Respondent failed to adequately follow up and/or failed to document having adequately
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22 ¹⁸ Coronary artery disease refers to a damage or disease in the heart’s major blood vessels.

23 ¹⁹ Diastolic heart failure occurs if the left ventricle muscle becomes stiff or thickened.

24 ²⁰ Gastroesophageal reflux disease (GERD) refers to a digestive disease in which stomach
25 acid or bile irritates the food pipe lining.

26 ²¹ Spinal stenosis refers to a narrowing of the spinal canal.

27 ²² Degenerative joint disease, also called osteoarthritis, is a type of arthritis that occurs
when flexible tissue at the ends of bones wears down.

28 ²³ Obstructive sleep apnea refers to an intermittent airflow blockage during sleep.

1 followed up with Patient C's use of amphetamine and marijuana: Respondent failed to obtain
2 urine drug screens. Respondent failed to adequately discuss and/or failed to document having
3 adequately discussed with Patient C regarding her amphetamine and cannabis use.

4 28. During the treatment period, from on or about May 1, 2016 through on or about
5 March 19, 2017, Respondent failed to adequately coordinate care with other health care
6 providers, including, but not limited to, other treating physicians such as the primary care
7 physician, psychiatrist, and staff at the nursing home.

8 29. Respondent committed repeated negligent acts in his care and treatment of Patient A
9 Patient B, and Patient C, including, but not limited to:

10 30. Respondent failed to adequately monitor Patient A during his pain management care
11 and treatment of Patient A;

12 31. Respondent failed to adequately monitor Patient B during his pain management care
13 and treatment of Patient B;

14 32. Respondent failed to adequately follow up with Patient C regarding Patient C's
15 amphetamine and cannabis use; and

16 33. Respondent failed to adequately coordinate his care and treatment of Patient C with
17 other health care providers and staff at the nursing home.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Adequate and Accurate Records)**

20 34. Respondent has further subjected his Physician's and Surgeon's Certificate No.
21 A 74848 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the
22 Code, in that Respondent failed to maintain adequate and accurate records regarding his care and
23 treatment of Patient A, Patient B, and Patient C, as more particularly alleged in paragraphs 9
24 through 33, above, which are hereby incorporated by reference and realleged as if fully set forth
25 herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(General Unprofessional Conduct)**

3 35. Respondent has further subjected his Physician's and Surgeon's Certificate No.
4 A 74848 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
5 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
6 unbecoming of a member in good standing of the medical profession, and which demonstrates an
7 unfitness to practice medicine, as more particularly alleged in paragraphs 9 through 34, above,
8 which are hereby incorporated by reference as if fully set forth herein.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Medical Board of California issue a decision:

12 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 74848, issued
13 to Prakash Krishin Bhatia, M.D.;

14 2. Revoking, suspending or denying approval of Prakash Krishin Bhatia, M.D.'s
15 authority to supervise physician assistants and advanced practice nurses;

16 3. Ordering Prakash Krishin Bhatia, M.D., to pay the Board the costs of the
17 investigation and enforcement of this case, and if placed on probation, the costs of probation
18 monitoring; and

19 4. Taking such other and further action as deemed necessary and proper.

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21 DATED: **APR 24 2023**

22 
23 REJI VARGHESE
24 Interim Executive Director
25 Medical Board of California
26 Department of Consumer Affairs
27 State of California
28 Complainant

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